

REMARKS:

This application has been carefully studied and amended in view of the Office Action dated September 27, 2005. Reconsideration of that action is requested in view of the following.

In the Office Action claims 1-18, 35, 36 and 52 were rejected under 35 USC 112 on the basis that Examiner Vo considered the feature added to claim 1 of "the first layer and second layer being made of different foamable materials" to be unsupported by the specification. In order to advance the prosecution of this case claim 1 has been amended to delete the term in question. Because, however, that term is supported by the specification claim 53 has been added as a dependent claim regarding that feature. Support for the feature is found at page 7, line 6 through page 8, line 2 of the specification. As discussed therein reference is made to layers 5 and 6. The discussion includes pointing out "that the layer 5 would be compliant while the layer 6 would have rigidity. Compliant layer 5 may have rubber-like characteristics such as materials conventionally used for refrigerator door seals or automobile door strips. Layer 5 may be tacky or non-tacky." As regards layer 6 reference is made to the materials disclosed in U.S. Patent No. 5,575,526. Those materials differ from the characteristics of the compliant layer 5. Accordingly, the two layers would be made of different materials.

In addition to presenting claim 53 by this amendment, claim 54 has also been added directed to a particular practice of the invention. Claim 54 is dependent on claim 1 and now recites the material used for the first layer, namely, a material which comprises "35-95% by weight synthetic resin, 1-60% by weight cell forming agent and 1-55% by weight filler". Support for this material is found in U.S. Patent No. 5,575,526 at column 4, line 32 through column 5, line 9. This material is disclosed in the present specification at page 7, lines 9-15 which incorporates by reference the details of U.S. Patent No. 5,575,526. Since the material is now being specifically claimed the specification has been amended at page 8 to expressly recite that material.

Claim 55 has been added which is dependent on claim 54 and refers to the first layer as being heat curable.

Since there are now three additional total claims the Commissioner is authorized to charge Deposit Account No. 03-2775 for the required fee.

Reconsideration is respectfully requested of the rejection of claims 1-3, 8-14, 16-18, 35-36 and 52 under 35 USC 102(b) as being anticipated by JP 08-169076 (Kimura). Kimura relates to a laminated woven or non-woven fabric in the form of a multilayered film made of a first thermoplastic resin layer and an adhesion layer having a lower melting point than the first layer. In accordance with the Kimura patent the laminated body comprises a

plurality of uniaxially stretched laminates which creates a stretched meshy film. The intended use of the laminated body includes "a sheet for a picnic spread, a hood or cover for a vehicle, a covering material for agricultural use, cement bags, synthetic resin pellet bags, a base material for adhesive tape, and a masking film or the like." (Col. 14, lines 46-49) Additional uses are for "agricultural use, materials for construction, and products for home use including covering materials for use in agriculture, covers for greens in golf courses, filters, water bags, various types of bags, oil absorbers, flower wraps, house wraps, mats, wipers and waste cloths." (Col. 14, lines 49-56) In contrast, the intended end use of the claimed laminate of this invention is as a stiffener particularly for automobiles to address the problem of paint read through which causes shadowing or metal distortion. In order to address this problem two specific layers are incorporated in the laminate in addition to the carrier layer. One of the layers is foamable and upon curing becomes a rigid foam. This provides the reinforcement properties desired. This first layer is mounted to the carrier layer. A second layer is a layer which becomes a compliant foam and would be mounted to the substrate such as a vehicle door. The laminate includes holes which extend through all of the layers to help reduce shrinkage strains during curing so as to avoid paint read through.

While it is correct that the intended end use of the claimed laminate in itself does not impart patentability to the claims and that the end use of the prior art laminate does not afford a grounds of patentable distinction, these differences in end use explain why the structure of the claimed laminate and of the prior art laminate are different. Claim 1 requires two separate foamable layers. One layer structurally requires having the capability of becoming a rigid foam upon curing, while the other layer has the structural capability of being a compliant foam upon curing. The capability of having these physical characteristics are structural requirements of each foamable layer. Merely having a layer of foamable material does not render that layer capable of becoming a rigid foam or capable of becoming a compliant foam. Thus, simply disclosing a foamable material as in Kimura is not a disclosure of the foamable layers having the physical capabilities which comprises structural limitations of the two layers in claim 1. Kimura nowhere discloses that its laminate has two foamable layers made of materials which have the physical capability that, upon curing and becoming foams, result in two distinctly different characteristics, one being rigid and the other being compliant.

Applicant does not agree that Kimura anticipates dependent claims 8-14 which defines the laminate as having a pair of end edges of non-straight and undulated shape as stated in claim 1 with specific variations of that shape being further defined in claims

9-14 which are dependent on claim 1. While at first glance Kimura appears to have a pair of non-straight edges, a closer inspection of Kimura would reveal that what is apparently illustrated is only a section of the fabric which most likely would have straight edges. See, for example, Figure 4 which illustrates a plurality of the stretched films laminated together. The three dashed lines would indicate that in those directions the laminate is of an indefinite length. The only solid line is a straight line. The various dashed lines and broken edges in the other figures would be consistent with the illustrations intended to be of only a portion of the laminate. Accordingly, in the absence of Kimura expressly stating that its laminates have a pair of edges of non-straight and undulated shape it is unreasonable to conclude that Kimura anticipates claims 8-14.

Reconsideration is respectfully requested of the rejection of claims 7, 15 and 36 as unpatentable over Kimura in view of Silvestre. Silvestre was relied upon as disclosing a masking tape used in combination with a vehicle door. Silvestre, however, does not overcome the deficiencies of Kimura discussed above.


The allowability of claims 30-34 is noted with appreciation.

It is also noted that claims 4-6 were rejected under 35 USC 112, but not rejected over the prior art. It is assumed that claims 4-6 will now be indicated as being allowable since the rejection of parent claim 1 under 35 USC 112 has been addressed.

For the reasons submitted above it is respectfully requested
that this application be passed to issue.

Respectfully Submitted,

CONNOLLY BOVE LODGE & HUTZ LLP

BY: 
HAROLD PEZZNER
REG. NO. 22,112
1007 N. ORANGE STREET
P. O. BOX 2207
WILMINGTON, DE 19899
(302) 658-9141

@PFDesktop\:::ODMA/MHODMA/IMANDMS;CB;431115;1